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EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3627

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06/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/808,303	Applicant(s) ISHIBASHI, YOSHIHITO	
	Examiner MARISSA THEIN	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's "Response to January 6, 2009 Office Action" filed on April 6, 2009 has been considered.

Applicant's response by virtue of amendment to claims 1, 9 and 17 has overcome the Examiner's rejection under 35 U.S.C. § 112, second paragraph.

Claims 1, 9, and 17 are amended. Claims 18-79 are cancelled. Claims 1-17 remain pending in this application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,892,900 to Ginter.

Regarding claims 1, Ginter discloses a content secondary distribution management system comprising: a plurality of user devices which manage secondary distribution in which a transaction of content usable by a user device is performed between the plurality of user devices (see at least Figure 77; col. 280, lines 59-65; col. 261, lines 10-48), wherein a first settlement log is issued from a first of the plurality of

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user devices to one of a service provider and a clearing center every time the content is distributed by the first of the plurality of user devices to at least one of the plurality of user devices (see at least col. 6, lines 14-28; col. 142, lines 10-15; col. 142, lines 35-40; col. 261, lines 10-34; col. 263, lines 5-10; col. 168, lines 26-27; col. 281, line 10- col. 282, line 5; col. 329, lines 11-45; col. 295, lines 53-col. 296, line 4; Figures 79-83; col. 332, lines 12-56) and a second settlement log is issued to said first of the plurality of user devices from at least one of the plurality of user devices distributing the content to another of the plurality of user devices every time the content is distributed by at least one of the plurality of user devices to another of the plurality of user devices, and (see at least col. 6, lines 15-28; col. 142, lines 35- 40; col. 296, lines 19-38; col. 141, line 57- col. 142, line 40; Figures 79-83; col. 329, lines 11-45; col. 295, lines 53-col. 296, line 4; col. 332, lines 12-56) said first of the plurality of use devices issues said second settlement log to said one of a service provider and a clearing center every time the content is distributed by at least one of the plurality of user devices to another of the plurality of user devices (see at least col. 261, lines 10-34; col. 263, lines 5-10; col. 168, lines 26-27; col. 327, lines 30-39; col. 281, line 10- col. 282, line 5; col. 330, line 45-col. 331, line 17; col. 329, lines 11-45; Figures 79-83), and a settlement processing for the content is performed based on both the first settlement log and the second settlement log under the management of said one of a service provider and a clearing center (see at least Figure 77; col. 281, line 10- col. 282, line 5).

Regarding claim 2, Ginter discloses a content receiving user (end user) device for receiving the content from said first of the plurality of users devices deducts a

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content usage fee from an electronic money balance up to an allowable amount of money set in an issue log based on information of usage control policy of the content, the content receiving user device creates a usage log; said first of the plurality of user devices creates a receive log and sends the receive log to the service provider and a clearing center; and the service provider and the clearing center performs the settlement processing for the electronic money for the use of the content based on the receive log from said first of the plurality of user devices and requests and account management institution to perform transfer processing for the content usage fee; and the account management institution performs the transfer processing (see at least col. 6, lines 14-28; Figure 25A; col. 42, line 59 – col. 43, line 20; col. 281, lines 33-44; col. 295, lines 53-col. 296, line 4).

Regarding claims 3-8 and 10-16, Ginter discloses:

- the content to be distributed between said plurality of user devices is contained in a secure container which stores a content price and information of the usage control policy including profit distribution information (see at least col. 59, lines 36-61; col. 279, lines 13-20; col. 279, lines 42-49; col. 292, lines 15-27), and wherein the service provider and the clearing center constructs a form of the transfer processing according to a log containing a content fee payer and a content fee receiver based on the profit distribution information (see at least col. 6, lines 14-28; col. 59, lines 36-61; col. 279, lines 21-31; col. 279, lines 42-49; col. 292, lines 15-27);

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- the usage control policy information includes indicating whether the secondary distribution of the content between the user devices is allowed, and wherein upon receiving the receive log created for a content in which the secondary distribution is not allowed, the service provider and the clearing center nullifies settlement processing to be performed for the receive log (see at least col. 279, lines 21-31; col. 281, lines 23-41);
- each of said plurality of user devices for performing the transaction of the content comprises an encryption processing unit, mutual authentication processing, and the user devices attach a digital signature and verify the digital signature (see at least col. 6, lines 14-28; col. 21, line 60 – col. 22, line 25; col. 257, lines 33-36);
- the plurality of user devices, service provider, and clearing center comprises an encryption processing unit, mutual authentication processing, attach a digital signature and verify the digital signature (see at least col. 6, lines 14-28; col. 21, line 60 – col. 22, line 25; col. 257, lines 33-36);
- the clearing center comprises a user balance database for managing an electronic money balance of the content and creates an issue log in which an allowable amount of money is set up to electronic money balance (see at least col. 36, lines 10-43; col. 40, lines 3-61; col. 280, lines 22-26); and
- usage control policy information includes profit distribution information of the content usage fee, and usage log and receive log include the profit distribution information, the service provider and clearing center performs the settlement processing for the content usage fee based on profit distribution information also

sends the transfer request to the account management institution (see at least col. 36, lines 10-43; col. 40, lines 3-61).

Regarding claims 9 and 17, Ginter discloses a method and a computer-readable medium having stored therein computer-executable instructions for managing secondary distribution in which a transaction of content usable a user device is performed between a plurality for user devices (see at least Figure 77; col. 280, lines 59-65; col. 261, lines 10-48), comprising: issuing a settlement log for the use of the content from a first of the plurality of user devices to one of a service provider and a clearing center every time the content is distributed by the first user device to at least one of plurality of user devices (see at least col. 6, lines 14-28; col. 142, lines 10-15; col. 142, lines 35- 40; col. 296, lines 19-28; col. 141, line 57-col. 142, line 40; Figure 79; col. 329, lines 11-45; col. 295, lines 53-col. 296, line 4; col. 332, lines 12-56); issuing said second settlement log for the use of the content from at least one of the plurality of user devices distributing the content to another of the plurality of user devices to said first of the plurality of user devices every time the content is distributed by the at least one of the plurality of user devices every time the content is distributed by the at least one of the plurality of user devices to another of the plurality user devices (Figures 79-83; col. 332, lines 12-56); issuing said second settlement log for the use of the content from said first of the plurality of use devices to said one of a service provider and a clearing center every time the content is distributed by at least one of the plurality of user devices to another of the plurality of user devices (see at least col. 6, lines 14-28; col. 261, lines 10-34; col. 263, lines 5-10; col. 168, lines 26-27; col. 281, line 10- col. 282,

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line 5; Figures 79-83; col. 379, lines 11-45; col. 295, lines 53-col. 296, line 4; col. 332, lines 12-56); and performing settlement processing for the identical content based on the settlement log under the management of the service provider and a clearing center (see at least Figure 77; col. 281, line 10- col. 282, line 5); and performing settlement processing for the content based on the first settlement log and the second settlement log under the management of said of a service provider and a clearing center (see at least Figure 77; col. 281, line 10- col. 282, line 5).

Response to Arguments

Applicant's arguments filed April 6, 2009 have been fully considered but they are not persuasive.

Applicant remark that "Ginter fails to disclose or evenly fairly suggest a second settlement log being issued to a first of the plurality of user devices from at least one of the plurality of user devices distributing the content to another of the plurality of user devices every time the content is distributed by at least one of the plurality of user devices to another of the plurality of user devices".

Examiner does not agree. Ginter does disclose the recitation above. Ginter discloses the chain of handling and controlling, wherein the VDE (video distribution environment) can protect a collection of rights in, or to, electronic information. The information may be at one location or dispersed across multiple locations. The information may pass through a chain of distributors and a chain of users. Usage information may also be reported through one or more chains of parties. VDE enables parties that have rights in electronic information, and/or act as direct or indirect agents

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for parties who have rights in electronic information to ensure that the moving, accessing, modifying or otherwise using of information can be securely controlled by rules regarding how, when, and by whom such activities can be performed. (Col. 6, lines 14-28). Ginter further discloses the administrative objects containing audit information in the data area of an event record can be sent from end users to distributors, and/or clearing houses and/or client administrators. (Col. 142, lines 35-40) In Figure 81, distributor A may request control information from creator B that enables distributor A to distribute control information to users and/or user/distributors that is associated with the VDE container described above in connection with creator B. Distributor A has established a business model that favors "rental" of access rights to users and user/distributors receiving such rights from distributor A. This model may be based on including one or more meter methods in control structures associated with creator B's container that will record the number of bytes decrypted by end users, but not charge users a fee based on such decryptions; rather distributor A proposes, and creator B's control information agrees to allow, a "rental" model to charge users, and determines the amount of payments to creator B based on information recorded by the bytes decrypted meter methods and/or collections of payment from users. Creator B may, for example, (a) accept such a new control model with distributor A acting as the auditor (e.g. trusting a control method associated with processing audit information received by distributor A from users of creator B's content using a VDE secure subsystem at distributor A's site, and further to securely calculate amounts owed by distributor A to creator B and, for example, making payments to creator B using a mutually acceptable

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budget method managing payments to creator B from credit and/or currency held by distributor A), (b) accept such a new control model based on distributor A's acceptance of a third party to perform all audit functions associated with this content, (c) may accept such a model if information associated with the one or more meter methods that record the number of bytes decrypted by users is securely packaged by distributor B's VDE secure subsystem and is securely, employing VDE communications techniques, sent to creator B in addition to distributor A, and/or (d) other mutually acceptable conditions.

(Col. 332, lines 12-56)

Such distributor A requesting control information from creator B that enables distributor A to distribute control information to users and/or user/distributors that is associated with the VDE container described above in connection with creator B; distributor A establishing a business model that favors "rental" of access rights to users and user/distributors receiving such rights from distributor A; creator B accepting such new control model with distributor A acting as the auditor (e.g. trusting a control method associated with processing audit information received by distributor A from users of creator B's content using a VDE secure subsystem at distributor A's site, and further to securely calculate amounts owed by distributor A to creator B and, for example, making payments to creator B using a mutually acceptable budget method managing payments to creator B from credit and/or currency held by distributor A); and creator B accepting such new control model based on distributor A's acceptance of a third party to perform all audit functions associated with this content are considered "a second settlement log being issued to a first of the plurality of user devices from at least one of the plurality of

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user devices distributing the content to another of the plurality of user devices every time the content is distributed by at least one of the plurality of user devices to another of the plurality of user devices”.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA THEIN whose telephone number is (571)272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. T./

Examiner, Art Unit 3627

June 22, 2009

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627